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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/679,851	10/06/2003	Ernest Kettelson		3200

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EXAMINER

SOTELO, JESUS D

ART UNIT PAPER NUMBER

3617

DATE MAILED: 09/02/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/679,851

Applicant(s)

KETTELSON, ERNEST

Examiner

Jesús D. Sotelo

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-45 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 6-9, 11, 14-16, 22-25, 28-30, 32-35, 41 and 42 is/are allowed.
- 6) ☒ Claim(s) 1-5, 10, 12, 13, 17-21, 26, 27, 31, 36-39 and 43-45 is/are rejected.
- 7) ☒ Claim(s) 40 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 06 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

1. Claims 1-45 are in the application.
2. Claims 12, 13, 43 and 44 are objected to under 37 CFR 1.75(c) as being in improper form because a multiple dependent claim should refer to other claims in the alternative only. See MPEP § 608.01(n). Accordingly, the claims have not been further treated on the merits.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-5, 26, 27, and 36-39 are rejected under 35 U.S.C. 102(b) as being anticipated by Fergus.

Fergus discloses a propeller including an elongated shaft 27, a first elongated blade 25 having an outer edge curving in one direction of rotation along the elongated shaft wherein the curve is less than one full rotation. The propeller includes a second similarly arranged blade 26.

5. Claim 45 is rejected under 35 U.S.C. 102(b) as being anticipated by Elias-Reyes.

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Elias-Reyes discloses a propulsion assembly on a water vessel including mounting means for mounting a plurality of screw propellers for rotation in longitudinally spaced apart relationship along the bottom portion of the water vessel (figure 5).

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fergus in view of Rightmyer. Rightmyer discloses a propulsion system similar to that of Fergus. Rightmyer teaches that area around the propulsion unit may be provided with spaced apart support means 21, 22. In view of these disclosures, it would have been obvious to one skilled in the art to provide the propulsion system of Fergus with spaced apart support means to protect the propulsion system, generally as taught by Rightmyer. The support means would have been desirable to provide the propulsion means with protection as taught by Rightmyer.

8. Claims 19 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fergus in view of Rosefsky.

Rosefsky discloses a drive propulsion device similar to that of Fergus. Rosefsky teaches that the blades of the propeller may be made of a plastic or other sturdy material. In view of these disclosures, it would have been obvious to one skilled in the art to make the blades of the

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propulsion device of Fergus from a plastic material or other sturdy material generally as taught by Rosefsky.

Allowable Subject Matter

9. Claim 40 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

10. Claims 6-9, 11, 14-16, 22-25, 28-30, 32-35, 41, and 42 are allowed.

Conclusion

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Levy discloses a helical propeller including intake protection means.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jesús D. Sotelo whose telephone number is 703-308-2563. The examiner can normally be reached on Mon. - Fri. 6:00 AM -2:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Samuel J. Morano can be reached on 703-308-0230. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Jesús D. Sotelo 8/30/04
Primary Examiner
Art Unit 3617
CPK 5-6D16 ☺

sotelo;jds
August 30, 2004